

FINJAN, INC.,

Plaintiff,

V.

BLUE COAT SYSTEMS, LLC,

Defendant.

Case No. 15-cv-03295-BLF

OMNIBUS ORDER RE: SEALING MOTIONS

[Re: ECF 350, 360]

Before the Court are two administrative motions to file under seal, one from Plaintiff Finjan, Inc. (“Finjan”) and one from Defendant Blue Coat Systems, LLC (“Blue Coat”). ECF 350, 360. Both relate to parties’ supplemental briefing on copying. *See id.* For the reasons set forth below, Finjan’s motion at ECF 350 is GRANTED IN PART and DENIED IN PART and Blue Coat’s motion at ECF 360 is DENIED without prejudice.

I. LEGAL STANDARD

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are “more than tangentially related to the merits of a case” may be sealed only upon a showing of “compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed upon a lesser showing of “good cause.” *Id.* at 1097. In addition, sealing motions filed in this district must be “narrowly tailored to seek sealing only of sealable material.” Civil L.R. 79-5(b). A party moving to seal a document in whole or in part must file a declaration establishing that the

1 identified material is “sealable.” Civ. L.R. 79-5(d)(1)(A). “Reference to a stipulation or
2 protective order that allows a party to designate certain documents as confidential is not sufficient
3 to establish that a document, or portions thereof, are sealable.” *Id.*

4 **II. DISCUSSION**

5 The Court has reviewed the parties’ sealing motions and the declarations submitted in
6 support thereof. The Court finds that the parties have articulated compelling reasons and good
7 cause to seal certain portions of the submitted documents. The proposed redactions are also
8 narrowly tailored. The Court’s rulings on the sealing requests are set forth in the tables below:

9 **A. ECF 350**

<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>																		
11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	350-4	Finjan’s Supplemental Brief on Copying	GRANTED as to p. 1 ll. 15-27 and p. 2 ll. 1-8; DENIED as to the remainder.	Contains highly confidential information relating to confidential aspects of Blue Coat’s business. Declaration of Michael Guo in Support of Finjan’s Administrative Motion to File Under Seal, ECF 356 (“Guo Finjan Sealing Decl.”) ¶ 5. The remainder is denied because Blue Coat, the designating party, has indicated that those portions of this document do not contain confidential information. <i>Id.</i> ; Declaration of James Hannah in Support of Finjan’s Administrative Motion to File Under Seal, ECF 350-1 (“Hannah Decl.”) ¶ 4.
350-6	Declaration of Kristopher Kastens in support of Finjan’s Supplemental Brief on Copying, ECF 350-6 (“Kastens Decl.”)	DENIED.	Blue Coat, the designating party, has indicated that those portions of this document do not contain confidential information. Guo Finjan Sealing Decl. ¶ 6; Hannah Decl. ¶ 5.																		
350-8	Ex. 2 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 7.																		
350-10	Ex. 3 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 8.																		

1	350-11	Ex. 4 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 9.
2	350-13	Ex. 5 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 10.
3	350-15	Ex. 6 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 11.
4	350-17	Ex. 7 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 12.
5	350-19	Ex. 8 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 13.
6	350-21	Ex. 9 to Kastens Decl.	GRANTED.	Contains Blue Coat's sensitive and highly confidential technical information relating to Blue Coat's products, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 14.
7	350-23	Ex. 10 to Kastens Decl.	GRANTED.	Contains Blue Coat's sensitive and highly confidential technical information relating to Blue Coat's products, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 15.
8	350-25	Ex. 11 to Kastens Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat competitive and business information, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 16.
9	350-27	Ex. 12 to Kastens Decl.	DENIED.	Blue Coat, the designating party, has indicated that those portions of this document do not contain confidential information. Guo Finjan Sealing Decl. ¶ 17; Hannah Decl. ¶ 6.
10	350-29	Ex. 13 to Kastens Decl.	GRANTED.	Contains Blue Coat's sensitive and highly confidential technical information relating to the accused products, which is not publicly disclosed. Guo Finjan Sealing Decl. ¶ 18.
11	B. ECF 360			
12	<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
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1	360-4	Blue Coat's Supplemental Brief	DENIED without prejudice.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Declaration of Michael Guo in Support of Blue Coat's Administrative Motion to File Under Seal, ECF 356 ("Guo Blue Coat Sealing Decl.") ¶ 5.
2	360-5	Ex. 6 to Declaration of Michael Guo in Support of Blue Coat's Supplemental Brief, ECF 362 ("Guo Decl.")	DENIED without prejudice.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Guo Blue Coat Sealing Decl. ¶ 6.
3	360-6	Ex. 7 to Guo Decl.	DENIED without prejudice.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Guo Blue Coat Sealing Decl. ¶ 7.
4	360-7	Ex. 8 to Guo Decl.	DENIED without prejudice.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Guo Blue Coat Sealing Decl. ¶ 8.

12 **III. ORDER**

13 For the reasons set forth above, Finjan's motion at ECF 350 is GRANTED IN PART and
14 DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied
15 because the party designating a document as confidential or subject to a protective order has not
16 provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser
17 redacted) documents into the public record no earlier than 4 days and no later than 10 days from
18 the filing of this order.

19 Blue Coat's motion at ECF 360 is DENIED without prejudice. Upon reviewing the
20 submitted documents, the Court suspects that Finjan's failure to submit a declaration in support of
21 sealing may have been inadvertent. If any portions of these documents require sealing, Finjan
22 shall submit a declaration no later than 4 days from the filing of this order. If no such declaration
23 is submitted, Blue Coat's motion will be DENIED with prejudice.

24 **IT IS SO ORDERED.**

25
26 Dated: October 24, 2017


27 BETH LABSON FREEMAN
28 United States District Judge